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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,859	11/26/2003	Gobal B. Avinash	139943/YOD GEMS:0256	9691
68174	7590	05/27/2010	EXAMINER	
GE HEALTHCARE c/o FLETCHER YODER, PC P.O. BOX 692289 HOUSTON, TX 77269-2289				MEHTA, PARIKHA SOLANKI
ART UNIT		PAPER NUMBER		
3737				
MAIL DATE		DELIVERY MODE		
05/27/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* GOBAL B. AVINASH and PRATHYUSHA K. SALLA

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Appeal 2010-000574  
Application 10/723,859  
Technology Center 3700

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Before DALE M. SHAW, *Division 2 Support Administrator.*

**ORDER REMANDING APPEAL TO EXAMINER**

This is a Director ordered remand under 37 CFR §41.35(c) for the matter identified below. Accordingly, the application is herewith being remanded to the Examiner.

This application was electronically received at the Board of Patent Appeals and Interferences on October 13, 2009. A Docketing Notice was mailed and Appeal No 2010-000574 was assigned on October 28, 2009.

Claims 13-24 and 35 of the instant application contain functional language that may be indefinite under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph. *See Ex Parte Rodriguez*, 2009 WL 3756279 (BPAI 2009) and *Aristocrat Techs.*

Appeal 2010-000574  
Application 10/723,859

*Austl. Pty. Ltd. v. Int'l. Game Tech.*, 521 F.3d 1328 (Fed Cir. 2008). On September 2, 2008 the Deputy Commissioner for Patent Examination Policy, John J. Love, issued a memorandum entitled “Rejections under 35 U.S.C. 112, second paragraph, when examining means (or step) plus function claim limitations under 35 U.S.C. 112, sixth paragraph”, located at:  
[http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/section\\_112\\_6\\_th\\_09\\_02\\_2008.pdf](http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/section_112_6_th_09_02_2008.pdf) . Thus, there is a question as to whether claims 13-24 and 35 and the claims which depend upon these claims, meet the requirements of being definite under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 13-24 and 35 and the claims which depend upon these claims, meet the requirements of 35 U.S.C. § 112, 2<sup>nd</sup> paragraph.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/mls

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